

Public Chapter 400

SENATE BILL NO. 1883

By McNally

Substituted for: House Bill No. 1792

By Burchett, Pleasant, Haley, Hargett

AN ACT To amend Tennessee Code Annotated, Title 56, Chapter 34 and Title 62, Chapter 5, Part 4, relative to pre-need funeral contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 5, Part 4, is amended by adding the following as a new section to be appropriately designated:

Section 62-5-4___. In civil actions, in which the prevailing party proves fraud relative to a contract for future services under this part, such prevailing party shall receive treble damages together with attorneys' fees, costs, and interest,

SECTION 2. Tennessee Code Annotated, Section 62-5-405, is amended by deleting subsection (b) and substituting instead the following:

(b) The commissioner shall promulgate and may from time to time revise rules and regulations for carrying out the intentions of this part in accordance with the Uniform Administrative Procedures Act. The commissioner shall require an annual audit to ensure that each person, firm, or corporation promising to pay or arrange for funeral services under this chapter will be able to perform its contract with the purchaser.

SECTION 3. Tennessee Code Annotated, Title 62, Chapter 5, Part 4, is amended by adding the following as a new section to be appropriately designated:

Section ___. In civil actions in which the prevailing party proves fraud relative to a pre-need sales contract for cemetery merchandise and services under this part, such prevailing party shall receive treble damages together with attorneys' fees, costs, and interest.

SECTION 4. Tennessee Code Annotated, Section 46-2-410(f), is amended by deleting such subsection in its entirety and by substituting instead the following:

(f) The commissioner shall promulgate and may from time to time revise rules and regulations for carrying out the intentions of this part in accordance with the Uniform Administrative Procedures Act compiled in Title 4, Chapter 5. The commissioner shall require an annual audit to ensure that each person, firm, or corporation which offers or enters into a contract for the sale of merchandise or services under this chapter will be able to perform its contract with the purchaser.

SECTION 5. The commissioner shall also conduct an annual audit of cemetery improvement care trust funds.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.